

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-40065 FDS

Elaine L. Chao, Secretary of Labor,
United States Dept. of Labor,

Plaintiff

v.

Brian M. Anger, NDI International, Inc.,
and Northeast Display, Inc. 401(K) Savings
and Investment Plan,
Defendants

ANSWER OF DEFENDANT BRIAN M. ANGER

Brian M. Anger ("Anger") answers the Complaint (the "Complaint") of Elaine L. Chao, Secretary of Labor, United States Dept. of Labor, (the "Secretary") as follows:

1. Paragraph 1 of the Complaint is admitted in part and denied in part. Specifically, Anger acknowledges that the authority of the Secretary to bring the Complaint is derived from ERISA. The action, to the extent that it has any merit, is substantially a product of common law.

2. Paragraph 2 of the Complaint is admitted in part and denied in part. Anger is a debtor in a Chapter 7 bankruptcy case. The Secretary has failed to request relief from the automatic stay. As a consequence, the Court lacks subject matter jurisdiction to adjudicate the Secretary's claims for monetary relief.

3. Anger admits paragraph 3 of the Complaint.

4. Anger admits the allegations of paragraph 4 except as they relate to the Secretary's motivation for joining the Northeast Display, Inc. 401(k) Savings and Investment Plan (the "Plan") as a party defendant, which Anger neither admits nor denies.

5. Anger lacks the legal capacity to answer for NDI International, Inc., ("NDI") as that entity is currently the subject of a Chapter 7 bankruptcy case. NDI can be represented only by its Chapter 7 trustee, Tali Tomsic. Consequently, Anger neither admits nor denies the allegations of paragraph 5. Upon information and belief, the Secretary has not obtained relief from the automatic stay authorizing her to proceed with litigation against NDI. Anger also notes that NDI did not do business as Northeast Display, Inc.

6. Anger admits that he was an officer and shareholder of NDI and that he served as a trustee and fiduciary of the Plan. Anger denies the remaining allegations of paragraph 6.

7. Paragraph 7 is denied.

8. Paragraph 8 is admitted.

9. Paragraph 9 is denied.

10. Paragraph 10 is denied.

11. Paragraph 11 is denied.

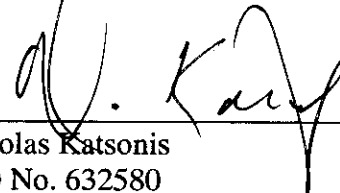
12. Paragraph 12 is denied.

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Wherefore, Anger respectfully requests that the Court decline all relief requested by the Secretary and grant such relief as is just and appropriate.

Respectfully submitted,

Brian M. Anger, Debtor,
By his attorney,



Nicholas Katsonis
BBO No. 632580
de Verges & Katsonis
40 Southbridge Street, Suite 215
Worcester, MA 01608
(508) 754-2600

Date: 7-13-04

CERTIFICATE OF SERVICE

I certify that true and correct copies of the foregoing pleading were served upon all parties listed below by United States Mail, postage prepaid, on this 13th day of July 2004



Nicholas Katsonis

Maureen L. Canavan
U.S. Department of Labor
Office of the Solicitor
J.F.K. Federal Bldg, Room E-375
Boston, MA 02203

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